



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.  
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21-CV-3687 (ALC) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves the discovery motion by the Terman Defendants at Dkt. 491, as responded to by Plaintiff at Dkt. 498 and non-party Sierpinski at Dkt. 499.

**Requests For Production Directed To Plaintiff Hedgeye:**

1. RFP 3: Any non-privileged/protected documents responsive to this RFP likely have been produced given that Plaintiff has produced all documents mentioning any of the Defendants. Accordingly, no search need be conducted specifically in response to this RFP.

2. RFP 16: Plaintiff shall comply with this request as modified by Defendants' March 7, 2023 email. To the extent Plaintiff has no responsive documents, as Hedgeye represents has already been determined, there is nothing to produce and nothing further is required.

3. RFP 25: Plaintiff shall conduct a reasonable search to locate and produce all non-privileged/protected internal communications assessing the performance of its Real Time Alerts.

4. RFP 28: It is not clear from the correspondence whether Plaintiff and Defendants are talking past each other. The parties shall meet and confer to attempt to

clarify and narrow this request to achieve a feasible solution. The request to compel is denied as moot without prejudice to renew after meeting and conferring.

**Requests For Production And Deposition Directed To Non-Party Sierpinski:**

1. Sierpinski shall identify and produce a witness for a 30(b)(6) Deposition. Sierpinski's request to limit the deposition to 3 hours is denied.

2. RFP 7: The parties shall meet and confer to attempt to narrow this request to achieve a feasible solution. The request to compel is denied as moot without prejudice to renew after meeting and conferring.

3. RFP 8: Based on Sierpinski's representation that it does not maintain ordinary course of business documents showing the requested information, there is nothing further for Sierpinski to produce in response to this request. The Court agrees with Sierpinski that the burden of "matching" trades falls on Defendants.

4. RFP 12: Sierpinski's response is deficient; Sierpinski's communications with Hedgeye do not equate with communications with Hedgeye customers or subscribers soliciting capital. Accordingly, Sierpinski shall comply with this request.

5. RFPs 13-14: As Sierpinski has committed to producing responsive documents, the request to compel is denied as moot without prejudice to renew after production.

6. RFP 15: Sierpinski shall comply with this request. To the extent Sierpinski has not located any responsive documents after a reasonable search, as Sierpinski represents already has been performed, nothing further is required.

The foregoing discovery shall be completed by **April 28, 2023**. The Clerk of Court is respectfully requested to terminate the letter motion at Dkt. 491.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: March 29, 2023  
New York, New York

Copies transmitted this date to all counsel of record.